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COUNTY OF LOS ANGELES

OFFICE OF THE COUNTY COUNSEL

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LOS ANGELES, CALIFORNIA 90012

March 16, 1976

JOHN H. LARSON, COUNTY COUNSEL

DONALD K. BYRNE, CHIEF DEPUTY

974-1904

Harry L. Hufford
Chief Administrative Officer
713 Hall of Administration
Los Angeles, CA 90012

Re: Sunset Coast Line

Dear Mr. Hufford:

You have requested our advice regarding the legal framework for Supervisor Ward's Sunset Coast Line proposal and how the County would fit into that framework.

A number of events are presently taking place which could affect the proposal: Legislation is pending in Sacramento; Supervisor Ward has evidenced a desire to modify the proposal somewhat to meet criticisms by the RTD consultants; and the RTD may make further changes before agreeing to the proposal. Therefore, our discussion will deal with the proposal as we understand it as of this date, bearing in mind that it could change dramatically before any definitive action is taken.

Basically, the proposal is for the construction of a comprehensive rail mass transit network serving all parts of Los Angeles County south of the Tehachapis, funded by a one-cent increase in the sales tax. The system would be built under the auspices of, and operated by, the Southern California Rapid Transit District, but the actual construction would be administered by the County.

In order to carry out the proposal, the RTD Board of Directors must place a proposition or propositions on the ballot authorizing the levy of the sales

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tax and the issuance of bonds secured by the proceeds thereof and establishing policies and limitations to assure that the system is constructed generally in line with the proposal. The County's role in the proposal would require a contract entered into between the County and the RTD.

ANALYSIS

Under present law, the District's power to impose a sales tax is limited to the basic authorizations in the District Act (Public Utilities Code, Sections 30000, et seq.). There are three different provisions of the Public Utilities Code which authorize the imposition of a sales tax: Sections 30820, et seq., which provide for a one-half cent sales tax, which may be coupled with a bond issue and which may be used for purposes other than operating expenses or maintenance; Sections 30830, et seq., which provide for a half-cent sales tax for capital financing and guideway systems; and Sections 30850, et seq., which provide for a half-cent sales tax for transit operations and fare reduction. Each of these procedures requires a two-thirds vote of the Board of Directors and a majority vote of the electorate before it can become effective. However, if a proposal under Section 30820 is coupled with a bond issue, a 60% vote of the electorate would be required for approval (Sections 30903, 30921).

The first of these procedures (Section 30820) was used as the basis for the 1968 RTD proposal, and the latter two, combined (Sections 30830 and 30850), were used as the basis for the 1974 proposal. The third proposal (Section 30850), providing for a tax for transit operations and fare reduction, could not be used for construction or capital financing. The only provision therein permitting capital expenditures is limited to municipal bus lines (Section 30852.5).

Therefore, under present law, the only funding proposals which could be made which would carry out Supervisor Ward's purposes would involve the first two methods (Sections 30820 and 30830). The question may be raised as to whether it would be possible to use both the 30820 and the 30830 procedures at the same time. However, both sections include language to the effect that the powers thereunder are in addition to any other

means of financing (Sections 30820 and 30830). In addition, Section 30820 was specifically amended in 1973 to provide that the tax thereunder was in addition to the tax under Section 30830 (Stats 1973, Chapter 160, Section 3). Although the matter may be challenged, we believe that both provisions could be used at the same time. The disadvantage, of course, would be that in order to issue bonds under the first procedure (Section 30820), a 60% voter approval would be required.

The fiscal measures would be brought before the voters by the RTD Board of Directors. Each procedure contains language to the effect that the tax may not be levied "unless the board shall have authorized the same by ordinance adopted by a vote of two-thirds of all members of the board, and such ordinance shall be approved by a majority of the votes cast by the qualified electors of the district." (Sections 30822, 30834.)

The establishment of policies and limitations to assure that the system is built substantially in accordance with the proposal appears under present law to be a separate question. The Section 30820 procedure requires that the ordinance approved by the voters specify the purpose for which revenue derived from the tax will be used (Section 30822). The Section 30830 procedure, however, contains no such requirement (Section 30834). Therefore, it may be that the policy ordinance under present law will be submitted under the RTD's general power to adopt ordinances which are effective only upon approval of the voters (Section 30741, Elections Code, Sections 5150, 5201).

It thus appears that under present law, in order to accomplish the stated purposes of the Sunset Coast Line proposal, at least two, and possibly three, propositions would have to be placed on the ballot by the RTD Board of Directors, one of which would require 60% voter approval. Changes in the proposal, as for instance the determination to eliminate all or part of the bonding requirements, would of course change this analysis.

At the present time, the proposal assumes the passage of AB 2770 (Vicenzia), which is pending in the Senate Public Utilities, Transit, and Energy Committee.

Although this bill, we understand, is to be further amended prior to passage, it will in any event consolidate all of the sales tax authority for the RTD under the Section 30830 procedure, raise the authority thereunder to a one-cent sales tax, and permit the establishment of policies, limitations, and administrative detail. The bill, therefore, would vastly simplify the procedural problems in getting the proposal before the people and permit the entire approval procedure to be consolidated into one ballot proposition requiring a majority vote of the electorate.

Assuming that the RTD Board and the voters approve the proposal by whatever means required, the County has the authority to administer the construction of the system for the RTD.

Section 26006 of the Government Code provides that the Board of Supervisors may make contributions of public funds, materials, property and services to a transit district for the purpose of improving public transportation within the county, and that these contributions may be subject to such terms and conditions as the Board deems reasonable under the circumstances, and contracts may be entered into for that purpose.

Section 30702 of the Public Utilities Code provides that the District may cooperate and enter into agreements with any public agency for the acquisition, construction, etc., of transit facilities and may contract with the agency for such purposes and may reimburse the agency for any contribution.

It is thus clear that the County has the power to enter into such an arrangement with the RTD. If the Board of Supervisors decides to act in this manner, the most appropriate procedure to follow would be to enter into a joint powers agreement under Sections 65000, et seq., of the Government Code.

Very truly yours,

JOHN H. LARSON, County Counsel

By

GERALD F. CRUMP, Chief
Public Works Division

APPROVED AND RELEASED:

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GFC:mj

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